

FEDERAL COMMUNICATIONS COMMISSION

CLASS OF STATION FM

PAS

The following application is submitted for action by the Chief, Broadcast Bureau.

ST	FILE NUMBER	CALL	APPLICANT AND LOCATION	NATURE OF APPLICATION
CA	BPH -911115MR N/M	NEW 104.1MHZ	ERIC R. HILDING WINDSOR CA	CP FOR NEW FM DN: FREQ: 104.1 MHZ., ERP: .240 KW (H&V) HAAT: 346 METERS (H&V) 38 32 25 122 57 40

LICENSE EXPIRATION DATE _____

PN: 12-2-91

Patrice Scott

CHIEF, LICENSE DIVISION

RECOMMENDATION: GRANT() CONSTRUCTION DATES, START _____ END _____

CONTESTED () UNCONTESTED ()

AJA
4.27.92

APPROVED _____

FOR CHIEF, BROADCAST BUREAU

F.C.C.-WASHINGTON, D.C.

Approved by OMB
3060-0440
Expires 2/28/93

FEDERAL COMMUNICATIONS COMMISSION

FEE PROCESSING FORM

ORIGINAL

FOR
FCC
USE
ONLY

FCC/MELLON NOV 15 1991

11-18-91 8195947 004

Please read instructions on back of this form before completing it. Section I MUST be completed. If you are applying for concurrent actions which require you to list more than one Fee Type Code, you must also complete Section II. This form must accompany all payments. Only one Fee Processing Form may be submitted per application or filing. Please type or print legibly. All required blocks must be completed or application/filing will be returned without action.

SECTION I

APPLICANT NAME (Last, first, middle initial)

HILDING, ERIC R.

MAILING ADDRESS (Line 1) (Maximum 95 characters - refer to Instruction (2) on reverse of form)

P.O. Box 1700

MAILING ADDRESS (Line 2) (If required) (Maximum 95 characters)

CITY

Morgan Hill

STATE OR COUNTRY (If foreign address)

CA

ZIP CODE

95038-1700

CALL SIGN

OTHER FCC IDENTIFIER

RECEIVED

NOV 19 1991

FM EXAMINERS

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

	(A) FEE TYPE CODE	(B) FEE MULTIPLE (If required)	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(1)	M T R		\$ 2,030	

SECTION II

— To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

	(A) FEE TYPE CODE	(B) FEE MULTIPLE (If required)	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(2)			\$	
(3)			\$	
(4)			\$	
(5)			\$	
ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.			TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING \$ 2,030	FOR FCC USE ONLY 2,030.00

INSTRUCTIONS FOR COMPLETING FEE PROCESSING FORM, FCC FORM 155, August 1991

- (1) **"Applicant Name"** - Enter the name (last, first, middle initial) of the applicant as it appears on the original application or filing being submitted with this Fee Processing Form. If company, enter name which is used commercially.
- (2) **"Mailing Address (Line 1)"** - Enter the street address or post office box number to which the applicant wishes correspondence sent.
- (3) **"Mailing Address (Line 2)"** - This line may be used for further identification of the address if additional space is required.
- (4) **"City"** - Enter the name of the city associated with the given street address.
- (5) **"State or Country"** - Enter the appropriate two-digit state abbreviation as prescribed by the U.S. Postal Service. If address is foreign, enter the appropriate country name here.
- (6) **"ZIP Code"** - Enter the appropriate five or nine-digit ZIP Code prescribed by the U.S. Postal Service.
- (7) **"Call Sign or Other FCC Identifier"** - Enter the applicable call or unique FCC identifier, if any, as shown on your attached application or filing. If applying for a service affecting more than one call sign, enter one call sign only.
- (8) **Column (A), "Fee Type Code"** - Enter correct Fee Type Code(s) from the appropriate Fee Filing Guide. Only one Fee Processing Form may be submitted per application or filing. Inaccurate or erroneous Fee Type Codes may result in your application or filing being returned to you without further processing.
- (9) **Column (B), "Fee Multiple"** - Certain applications and filings may request action with respect to more than one station, license, frequency, or party and can be submitted together with one check if they meet specific conditions. This column is used only if a multiple, i.e., two or more, is being applied for. Examples of when this would be used are renewing more than one call sign, frequency, station, or the transfer of control of more than one station. Refer to the appropriate Fee Filing Guide for additional information.
- (10) **Column (C), "Fee Due for Fee Type Code in Column (A)"** - Enter in this block the amount of the fee associated with the Fee Type

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

For COMMISSION Fee Use Only	FEE NO:	For APPLICANT Fee Use Only
	FEE TYPE:	Is a fee submitted with this application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	FEE AMT:	If fee exempt (see 47 C.F.R. Section 1.1112), indicate reason therefor (check one box): <input type="checkbox"/> Noncommercial educational licensee <input type="checkbox"/> Governmental entity
	ID SEQ:	FOR COMMISSION USE ONLY BPH - 91115MR FILE NO.

Section I - GENERAL INFORMATION

1. Name of Applicant ERIC R. HILDING			Send notices and communications to the following person at the address below: Name ERIC R. HILDING		
Street Address or P.O. Box P.O. Box 1700			Street Address or P.O. Box P.O. Box 1700		
City Morgan Hill	State CA	ZIP Code 95038	City Morgan Hill	State CA	ZIP Code 95038
Telephone No. (include Area Code) (408)842-2222			Telephone No. (include Area Code) (408)842-2222		

2. This application is for: ☐ AM ☒ FM ☐ TV

(a) Channel No. or Frequency 281A 104.1	(b) Principal Community Windsor	City Windsor	State CA
--	------------------------------------	-----------------	-------------

(c) Check one of the following boxes:

☒ Application for NEW station

☐ MAJOR change in licensed facilities; call sign: _____

☐ MINOR change in licensed facilities; call sign: _____

☐ MAJOR modification of construction permit; call sign: _____

File No. of construction permit: _____

☐ MINOR modification of construction permit; call sign: _____

File No. of construction permit: _____

☐ AMENDMENT to pending application; Application file number: _____

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

3. Is this application mutually exclusive with a renewal application? ☐ Yes ☒ No

If Yes, state:

Channel 104.1MHZ	File No. BPH - 911115MR NEW	State CA
WINDSOR		
ERIC R. HILDING		

Section II - LEGAL QUALIFICATIONS

Name of Applicant

ERIC R. HILDING

1. Applicant is (check one box below)

- ☒ Individual ☐ General partnership ☐ For-profit corporation
☐ Other ☐ Limited partnership ☐ Not-for-profit corporation

2. If the applicant is an unincorporated association or a legal entity other than an individual, partnership, or corporation, describe in an Exhibit the nature of the application.

Exhibit No.
n/a

NOTE: The terms "applicant," "parties to this application," and "non-party equity owners in the applicant" are defined in the instructions for Section II of this form. Complete information as to each "party to this application" and each "non-party equity owner in the applicant" is required. If the applicant considers that to furnish complete information would pose an unreasonable burden, it may request that the Commission waive the strict terms of this requirement with appropriate justification.

3. If the applicant is not an individual, provide the date and place of filing of the applicant's enabling charter (e.g., a limited partnership must identify its certificate of limited partnership and a corporation must identify its articles of incorporation by date and place of filing):

Date n/a Place n/a

In the event there is no requirement that the enabling charter be filed with the state, the applicant shall include the enabling charter in the applicant's public inspection file. If, in the case of a partnership, the enabling charter does not include the partnership agreement itself, the applicant shall include a copy of the agreement in the applicant's public inspection file.

4. Are there any documents, instruments, contracts or understandings (written or oral), other than instruments identified in response to Question 3 above, relating to future ownership interests in the applicant, including but not limited to, insulated limited partnership shares, nonvoting stock interests, beneficial stock ownership interests, options, rights of first refusal, or debentures?

n/a
☐ Yes ☐ No

If Yes, submit as an Exhibit all such written documents, instruments, contracts, or understandings, and provide the particulars of any oral agreement.

Exhibit No.
n/a

5. Complete, if applicable, the following certifications:

n/a
☐ Yes ☐ No

(a) Applicant certifies that no limited partner will be involved in any material respect in the management or operation of the proposed station.

If No, applicant must complete Question 6 below with respect to all limited partners actively involved in the media activities of the partnership.

n/a
☐ Yes ☐ No

(b) Does any investment company (as defined in 15 U.S.C. Section 80 a-3), insurance company, or trust department of any bank have an aggregated holding of greater than 5% but less than 10% of the outstanding votes of the applicant?

n/a
☐ Yes ☐ No

If Yes, applicant certifies that the entity holding such interest exercises no influence or control over the applicant, directly or indirectly, and has no representatives among the officers and directors of the applicant.

Section II - LEGAL QUALIFICATIONS (Page 2)

6. List the applicant, parties to the application and non-party equity owners in the applicant. Use one column for each individual or entity. Attach additional pages if necessary.

(Read carefully - The numbered items below refer to line numbers in the following table.)

1. Name and residence of the applicant and, if applicable, its officers, directors, stockholders, or partners (if other than individual also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners.
2. Citizenship.
3. Office or directorship held.
4. Number of shares or nature of partnership interests.
5. Number of votes.
6. Percentage of votes.
7. Other existing attributable interests in any broadcast station, including the nature and size of such interests.
8. All other ownership interests of 5% or more (whether or not attributable), as well as any corporate officership or directorship, in broadcast, cable, or newspaper entities in the same market or with overlapping signals in the same broadcast service, as described in 47 C.F.R. Section 73.3555 and 76.501, including the nature and size of such interests and the positions held.

1.	ERIC R. HILDING 16945 Del Monte Avenue #105 Morgan Hill, CA 95037		
2.	U.S.A.		
3.	100% Owner		
4.	n/a		
5.	n/a		
6.	n/a		
7.	n/a		
8.	n/a		

Section 11 - LEGAL QUALIFICATIONS (Page 3)

7. Does the applicant, any party to the application or any non-party equity owner in the applicant have, or have they had, any interest in:

(a) a broadcast station, or pending broadcast station application before the Commission?

☒ Yes ☐ No

(b) a broadcast application which has been dismissed with prejudice by the Commission?

☒ Yes ☐ No

(c) a broadcast application which has been denied by the Commission?

☐ Yes ☒ No

(d) a broadcast station, the license of which has been revoked?

☐ Yes ☒ No

(e) a broadcast application in any pending or concluded Commission proceeding which left unresolved character issues against the applicant?

☐ Yes ☒ No

If the answer to any of the questions in (a)-(e) above is Yes, state in an Exhibit the following information:

Exhibit No.
A-1

(1) Name of party having interest;

(2) Nature of interest or connection, giving dates;

(3) Call letters of stations or file number of application or docket; and

(4) Location.

8. (a) Are any of the parties to the application or non-party equity owners in the applicant related (as husband, wife, father, mother, brother, sister, son or daughter) to each other?

☐ Yes ☒ No

(b) Does any member of the immediate family (i.e., husband, wife, father, mother, brother, sister, son or daughter) of any party to the application or non-party equity owner in the applicant have any interest in or connection with any other broadcast station, pending broadcast application or newspaper in the same area (see Section 73.3555(c)) or, in the case of a television station applicant only, a cable television system in the same area (see Section 76.501(a))?

☐ Yes ☒ No

If the answer to (a) or (b) above is Yes, attach an Exhibit giving full disclosure concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number of such application, and the location of such station or proposed station.

Exhibit No.
n/a

9. State in an Exhibit any interest the applicant or any party to this application proposes to divest in the event of a grant of this application.

Exhibit No.
n/a

OTHER MASS MEDIA INTERESTS

10. (a) Do individuals or entities holding nonattributable interests of 5% or more in the applicant have an attributable ownership interest or corporate officership or directorship in a broadcast station, newspaper or CATV system in the same area? (See Instruction 8 to Section 11.)

☐ Yes ☒ No

(b) Does any member of the immediate family (i.e., husband, wife, father, mother, brother, sister, son or daughter) of an individual holding a nonattributable interest of 5% or more in the applicant have any interest in or connection with any other broadcast station, pending broadcast application, newspaper in the same area (see Section 73.3555(c)), or, in the case of a television station applicant only, a cable television system in the same area (see Section 76.501(a))?

☐ Yes ☒ No

If the answer to (a) and/or (b) above is Yes, attach an Exhibit giving a full disclosure concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number of such application, and the location of such station or proposed station.

Exhibit No.
n/a

Section 11 - LEGAL QUALIFICATIONS (Page 4)

CITIZENSHIP AND OTHER STATUTORY REQUIREMENTS

11. (a) Is the applicant in violation of the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments? (See Instruction C to Section 11.)

☐ Yes ☒ No

(b) Will any funds, credits or other financial assistance for the construction, purchase or operation of the station(s) be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents?

☐ Yes ☒ No

If the answer to (b) above is Yes, attach an Exhibit giving full disclosure concerning this assistance.

Exhibit No.
n/a

12. (a) Has an adverse finding been made or an adverse final action been taken by any court or administrative body as to the applicant, any party to this application, or any non-party equity owner in the applicant in a civil or criminal proceeding brought under the provisions of any law related to the following:

Any felony; broadcast related antitrust or unfair competition; criminal fraud or fraud before another governmental unit; or discrimination?

☐ Yes ☒ No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in (a) above?

☐ Yes ☒ No

If the answer to (a) and/or (b) above is Yes, attach an Exhibit giving full disclosure concerning persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), a statement of the facts upon which the proceeding is or was based or the nature of the offense alleged or committed, and a description of the current status or disposition of the matter.

Exhibit No.
n/a

NOTE: If this application is for a change in an operating facility do not fill out this section.

- ☒ Yes ☐ No

- \$ \$140,000**

- | Source of Funds
(Name and Address) | Telephone Number | Relationship | Amount |
|--|------------------|--------------|-----------|
| Dr. & Mrs. Arthur W. Hilding
12130 Calle Uvas
Gilroy, CA 95020 | (408)842-2223 | Parents | \$140,000 |

Section IV-A - PROGRAM SERVICE STATEMENT

Attach as an Exhibit, a brief description, in narrative form, of the planned programming service relating to the issues of public concern facing the proposed service area.

Exhibit No.
A-2

Section IV-B - INTEGRATION STATEMENT

Attach as an Exhibit the information required in 1. and 2. below.

Exhibit No.
A-3

1. List each principal of the applicant who, in the event of a grant of the application on a comparative basis proposes to participate in the management of the proposed facility and, with respect to each such principal, state whether he or she will work full-time (minimum 40 hours per week) or part-time (minimum 20 hours per week) and briefly describe the proposed position and duties.
2. State with respect to each principal identified in response to Item 1. above, whether the applicant will claim qualitative credit for any of the following enhancement factors:
 - (a) Minority Status
 - (b) Past Local Residence
If Yes, specify whether in the community of license or service area and the corresponding dates.
 - (c) Female Status
 - (d) Broadcast Experience
If Yes, list each employer and position and corresponding dates.
 - (e) Daytime Preference

BROADCAST INTERESTS STATEMENT

Eric R. Hilding was a party to the following:

Application File No. BPH-831216B0, MM Docket No. 86-227
Channel 240A - Freedom. CA - Application Dismissed

PROGRAM SERVICE STATEMENT

Eric R. Hilding will provide programming concerning issues of public importance in Windsor and the service area, and it is anticipated that at least one hour per week will be so focused.

It will be his responsibility, as station General Manager, to touch the pulse of Windsor and the service area, to determine which issues are most deserving of broadcast attention.

INTEGRATION STATEMENT

Eric R. Hilding is an individual applicant with 100% ownership and management control. He propose to work 40 (or more) hours per week at the new FM station in the full-time capacity of General Manager. Mr. Hilding's duties will include, but are not limited to, the following:

1. Overall management of station operations and personnel to include any part-time employees;
2. Short, medium and long-range planning as well as the managing of the financial affairs of the station;
3. Interface with local community organizations in Windsor and the service area;
4. Responsibility for programming direction to include the supervision of music aired on the station;
5. Supervision of station construction activities as well as equipment selection and engineering;
6. Administrative management and supervision of traffic and billing operations and secretarial staff;
7. Responsibility for direction of marketing and sales activities for the new FM station.

In order to accomplish his integration proposal, Hilding will terminate any then current employment activities (whether of a full-time, part-time or other nature), including that or those with any form of mass media, prior to application for program test authority for the new FM station at Windsor, CA.

Eric R. Hilding is a Caucasian male, and believes that The Commission's questions on FCC Form 301 evoking "minority" and/or "female" status for preferential treatment in selection of best qualified applicant are a violation of his civil rights to equal opportunity as intended by the U.S. Constitution.

Eric R. Hilding is a United States of America citizen and believes that the Commission's questions on FCC Form 301 evoking "local residence" for either community of license and/or service area preferential treatment in the selection of a best qualified applicant are a violation of his civil rights to equal opportunity as intended by the U.S. Constitution, regardless of current U.S. residence before grant of an FCC permit. He does intend to move to Windsor upon which may be construed as future residence credit.

As original Channel Petitioner for a new FM allotment at Windsor, California, Eric R. Hilding claims a "Pioneer (or) Channel Petitioner Preference" enhancement for his efforts, time and expense which has resulted in a public service benefit.

Eric R. Hilding claims additional Public Service Benefit enhancement credit as the initiator of approximately 15 new FM services allotments within the state of California, many of which resulted in a "first local service" to the public.

Due to certain topographical considerations in the new Windsor FM service area, Eric R. Hilding claims a "Technical Merit" enhancement for the proposed use of a single-bay FM antenna in order to reduce multi-path interference and better serve the public interest. Additional enhancement credit is claimed for the use of compact disc quality music service.

Auxiliary Power enhancement credit is claimed for Hilding's proposed use of back-up electrical power generators at both the transmitter and studio locations, in order to insure continuity of programming to the public within Windsor, California, and the entire service area.

Eric R. Hilding claims an enhancement for U.S. Military service in the defense of the United States of America. He also claims enhancement for substantial community and public service (civic) participation in various communities, and that it is a violation of his civil rights and equal protection for the Commission to discriminate between civic involvement in any capacity, whether within a "community of license", "service area" or other locale. "Equal footing" civic participation credit enhancement is claimed regardless of area of service.

Eric R. Hilding is a Cable TV Commissioner appointed by the Morgan Hill City Council, and has held the position since July, 1987. He currently serves as Chairperson.

Eric R. Hilding works as an independent program producer and announcer on KSQQ Radio, Morgan Hill, California, with a special two-hour program Monday through Friday evenings. He has done this since January 21, 1991. The program format is Hilding's development.

Eric R. Hilding was Sales Manager of KSCO Radio, Santa Cruz, California, from June 15, 1987 until approximately December 28, 1987, when he assumed additional responsibilities as Sales Manager of KLRS-FM, Santa Cruz, CA. He resigned from both stations effective September 30, 1988, and continued on in less than a full-time position until November 22, 1988. The format at KSCO was oldies/MOR; KLRS was New Age/Jazz.

Eric R. Hilding hosted a regular weekend airshift on station KLOK-AM, San Jose, California, from approximately October, 1985, through July 4, 1986. He also did vacation and emergency relief. The format was adult contemporary.

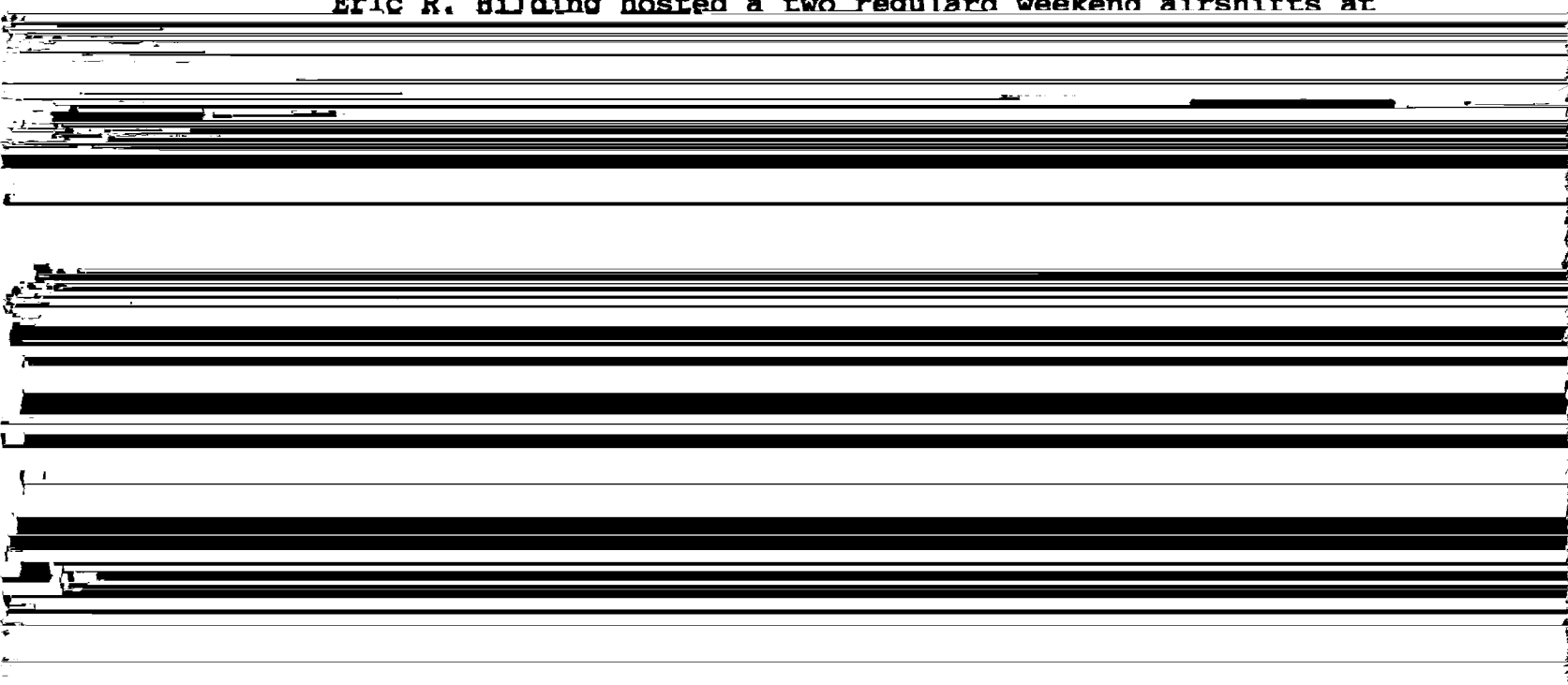
Eric R. Hilding hosted a regular Saturday and Sunday afternoon airshift during the period of approximately March 30, 1985, through September 1, 1985, as well as occasional vacation and emergency replacement airshifts. The format at KBAY was beautiful music.

Eric R. Hilding was Program Director at KIDD Radio in Monterey, California, from February, 1984 through August, 1984. Previously, he had worked a regular weekend airshift from about November, 1983 through early February, 1984. The format at KIDD was adult contemporary.

Eric R. Hilding hosted a regular weekend airshift on KDON-FM Radio, Salinas, California during most of both September and October, 1983. The format @ KDON-FM was CHR/adult contemporary.

Eric R. Hilding assisted the new owners of KWSS (KFAT) Radio, Gilroy, California, during ownership transition by working a two week airshift until the regular new staff arrived. The format was an odd variety of music.

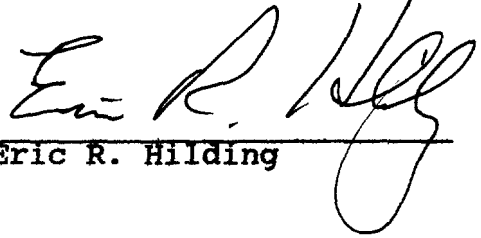
Eric R. Hilding hosted a two regular weekend airshifts at



DECLARATION UNDER PENALTY OF PERJURY

Eric R. Hilding declares under penalty of perjury that the foregoing is true and correct to the best of his knowledge in spite of hasty preparation in order to make the filing window deadline for the new FM channel at Windsor, CA.

Date: November 14, 1991



Eric R. Hilding

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-187

In the Matter of

Amendment of Section 73.202(b).
Table of Allotments,
FM Broadcast Stations.
(Windsor and Calistoga,¹
California)

RM-7088

RM-7414

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 13, 1991; Released: August 28, 1991

By the Assistant Chief, Allocations Branch:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 5 FCC Rcd 2143 (1990), issued in response to a petition for rule making filed by Eric R. Hilding ("petitioner") proposing the allotment of FM Channel 265A to Windsor, California, as that community's first local FM service. Petitioner and Miklos Benedek ("Benedek") each filed supporting comments in response to the *Notice*. Michael D. Espinoza ("Espinoza") filed comments and a counterproposal² requesting the allotment of Channel 265A to Calistoga, California, as that community's first local aural transmission service. Petitioner filed reply comments. No other comments were received.

2. Espinoza, in his counterproposal, states an intention to apply for Channel 265A, if allotted to Calistoga (population 3,879).³ In support of his proposal, Espinoza claims that daytime AM Station KEZD currently provides local aural service to Windsor, an unincorporated community of 2,359 residents. While Channel 265A appears to be the only Class A channel available for operation as a 6 kW facility at Calistoga, Espinoza's engineering analysis demonstrates that Channel 281A could be allotted to Windsor consistent with the minimum distance separation requirements of the Commission's Rules with an appropriate site restriction.⁴ Espinoza urges that his proposal would provide the greatest possible amount of new service, giv-

ing Windsor its first local FM service, while providing a first local aural transmission service to the larger community of Calistoga.

3. Petitioner's responsive comments allege that contrary to Espinoza's assertion, the unincorporated community of Windsor has a larger population than Calistoga, and continues to experience significant growth.⁵ Additionally, petitioner claims that Calistoga receives aural reception service from several nearby stations. Petitioner also implies that the proposed allotment of Channel 281A at Windsor, in lieu of proposed Channel 265A, is not equivalent since it would require a site restriction, and would not permit operation as a 6 kilowatt facility. Petitioner offers that both proposals can be accommodated if Channel 292A is allotted to Calistoga, and urges the Commission to apply the provisions of Section 73.213(c) of the Rules to allow its use. Petitioner also requests grant of a waiver to that effect based on the filing of his proposal prior to adoption of the *Second Report, supra*.⁶

4. Petitioner's arguments are without merit. Initially, we note that daytime Station KEZD(AM) is licensed to Windsor (File No. BP-900227AB), thus constituting a local aural transmission service at that community, whereas Calistoga is devoid of any local aural transmission service. Furthermore, Hilding's argument that Calistoga receives reception service from several nearby stations is unpersuasive in this instance. The Commission has long held that reception service from nearby stations does not constitute an adequate substitute for local service. See *Bartow, Georgia*, 4 FCC Rcd 6876 (1989), and cases cited therein.

5. We do not find petitioner's opposition to the allotment of channel 281A in lieu of Channel 265A at Windsor to be compelling. Channels are considered to be equivalent if they are of the same class, would comply with the minimum distance separation requirements, and could provide a 70 dBu contour over the proposed principal community of license. See *Vero Beach, FL*, 3 FCC Rcd 1049 (1988), *rev. denied*, 4 FCC Rcd 2184, 2185 (1989), and Paragraph 3(c) of the Appendix to the *Notice*. Moreover, since the Windsor proposal was filed prior to October 2, 1989, the effective date of the *Second Report, supra*, proposed Channel 281A at Windsor would permit operation with the same maximum power to which petitioner would be entitled on Channel 265A (*i. e.*, 3 kW) under Section 73.213(c) of the Commission's Rules. See *Angola, IN*, 6 FCC Rcd 1230 (1991), and *Belvidere, NJ*, 6 FCC Rcd 1333 (1991).

6. The proposals, as requested, are mutually exclusive since Windsor and Calistoga are separated by a distance of 22 kilometers (14 miles) whereas a distance of 115 kilometers (71 miles) is required in this instance. However, we believe that both proposals are meritorious.

¹ The community of Calistoga, California, has been added to the caption.

² Public Notice of the counterproposal was given July 2, 1990, Report No. 1820.

³ Population figures reflected herein are from the 1980 U. S. Census, unless otherwise indicated.

⁴ Petitioner's proposal was filed prior to October 2, 1989, the effective date of the *Second Report and Order* ("Second Report") in MM Docket No. 88-375, 4 FCC Rcd 6375 (1989). Thus, consideration of an allotment at Windsor would be considered pursuant to the provisions contained in Section 73.213(c) of the Commission's Rules.

⁵ Petitioner's assertion is based upon a state agency projection of population for Windsor, within the Healdsburg, California, planning area. According to those figures, Windsor's estimated 1990 population is 10,500.

⁶ Petitioner neglected to provide a technical showing to demonstrate that the requested allotment of Channel 292A at Calistoga complies with the minimum distance separation requirements specified in Section 73.207(b) of the Commission's Rules, and therefore it is unacceptable for consideration. See § 1.401(c) of the Commission's Rules. Moreover, since the Calistoga proposal was filed May 25, 1990, it must be processed under the post-October 2, 1989 rules. See *Second Report, supra*.

Therefore, as a result of a staff engineering analysis, we have confirmed Espinoza's assertion that Channel 281A can be allotted to Windsor with an appropriate site restriction. Since each community can be accommodated, a comparative analysis of the competing proposals is unnecessary.⁷

7. Based on the above, the Commission believes the public interest would be served by allotting Channel 281A to Windsor, California, and Channel 265A to Calistoga, California, since an additional local aural transmission service and a first local aural transmission service could be provided to each community, respectively. Channel 281A can be allotted to Windsor consistent with the minimum distance separation requirements of the Commission's Rules, provided the transmitter is sited at least 9.3 kilometers (6 miles) northeast of the community⁸ to avoid short-spacing to Station KHOP(FM), Channel 281B, Modesto, California.⁹ Channel 265A can be allotted to Calistoga consistent with the minimum distance separation requirements contained in Section 73.207(b) of the Commission's Rules, with a site restriction 6.7 kilometers (4.2 miles) north of the community to avoid short-spacing to Station KTID-FM, Channel 264A, San Rafael, California.¹⁰

8. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 15, 1991, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED to include the communities listed below, as follows:

City	Channel No.	
	Present	Proposed
Calistoga, California	--	265A
Windsor, California	--	281A

9. The window period for filing applications for Channel 265A at Calistoga, California, and for Channel 281A at Windsor, California, will open on October 16, 1991, and close on November 15, 1991.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

⁷ Even if Channel 281A had not been available for consideration at Windsor, resulting in a comparison of the two communities, the availability of local transmission service at Windsor would result in a determination that, pursuant to our allotment priorities, a first local transmission service at Calistoga would be preferred over an additional service at Windsor. See *Revision of FM Allotment Policies and Procedures*, 90 FCC 2d 88, 92 (1982). Although Windsor may contain a larger population than Calistoga, this factor would not outweigh the benefits accruing from the provision of a first local aural transmission service at Calistoga.

⁸ Coordinates used for Channel 281A at Windsor are 38-36-37 and 122-53-12. Minimum spacings are met based upon the provisions of Section 73.213(c) of the Commission's Rules. See 47

FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger
Assistant Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

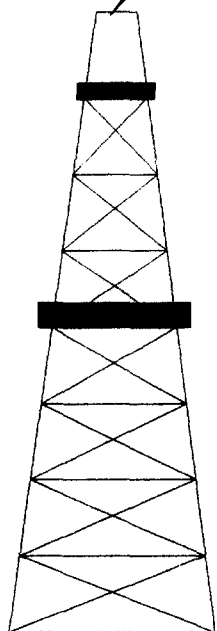
CFR § 73.213(c).

⁹ Coordinates at the licensed site of Station KHOP(FM) are 37-39-10 and 121-28-38.

¹⁰ Coordinates used for Channel 265A at Calistoga are 38-38-07 and 122-35-13. Although Channel 265A at Calistoga is short-spaced to the licensed coordinates of Station KTID-FM, Channel 265A, San Rafael, California, at coordinates 37-58-49 and 122-31-39, the required minimum distance of 72 kilometers between first adjacent Class A channels is met based upon Station KTID-FM moving to Channel 264A, pursuant to MM Docket No. 89-86. Station KTID-FM has been issued a construction permit at coordinates 37-59-24 and 122-29-57, to which Channel 265A is fully spaced.

HILDING
COMMUNICATIONS

Box 1700 · Morgan Hill, CA 95038-1700



ENGINEERING EXHIBIT

ERIC R. HILDING

FM Channel 281A * Windsor, CA



Box 1700 · Morgan Hill, CA 95038-1700

ENGINEERING STATEMENT OF ERIC R. HILDING

ERIC R. HILDING declares under penalty of perjury the following to be true, accurate and complete to the best of his knowledge:

1. That he has prepared the attached Section V-B FM BROADCAST ENGINEERING DATA and related Exhibits, either personally, or in conjunction with sub-contracted for consulting or engineering service(s), all of which are believed to be accurate and true.
2. That he has previously submitted numerous applications to the Federal Communications Commission for broadcast, new broadcast channel allotments and has been instrumental in effectuating positive change in certain rules of the Commission pursuant to FM technical policy.
3. The RF Hazard Study was done by Mr. Doug Vernier, Broadcast Consultant, whose qualifications are a matter of record at the Federal Communications Commission.

Date: ~~May~~ 14, 1991

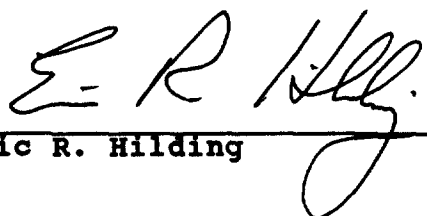

Eric R. Hilding

TABLE OF CONTENTS

1. FCC 301 Section V-B FM BROADCAST ENGINEERING DATA
2. Exhibit E-1 Antenna Vertical Plan Sketch
3. Exhibit E-2 Non-Interference Statement
4. Exhibit E-3 Site Location - 7.5' USGS Map
5. Exhibit E-4 Predicted Coverage Map
6. Exhibit E-5 Predicted Contours Table
7. Exhibit E-6 RF Hazard Study

Section V-B - FM BROADCAST ENGINEERING DATA

FOR COMMISSION USE ONLY

File No. _____

ASB Referral Date _____

Referred by _____

Name of Applicant

ERIC R. HILDING

Call letters (if issued) _____

In this application, being filed in response to a

☒ V

☐ W

☐ W

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 2)

4. Does the application propose to correct previous site coordinates?

☐ Yes ☒ No

If Yes, list old coordinates.

Latitude - 0 - ' - "	Longitude - 0 - ' - "
--	---

5. Has the FAA been notified of the proposed construction?

☐ Yes ☒ No

If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available. (Installation will be on an existing structure)

Exhibit No.
n/a

Date _____ Office where filed _____

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to nearest point of the nearest runway.

	Landing Area	Distance (km)	Bearing (degrees True)
(a)	-	-	-
(b)	-	-	-

7. (a) Elevation: (to the nearest meter)

(1) of site above mean sea level;

502 meters

(2) of the top of supporting structure above ground (including antenna, all other appurtenances, and lighting, if any); and

117 meters

(3) of the top of supporting structure above mean sea level [(aX1) + (aX2)]

519 meters

(b) Height of radiation center: (to the nearest meter) H = Horizontal; V = Vertical

(1) above ground

115 meters (H)15 meters (V)

(2) above mean sea level [(aX1) + (bX1)]

517 meters (H)517 meters (V)

(3) above average terrain

346 meters (H)346 meters (V)

8. Attach as an Exhibit sketch(es) of the supporting structure, labelling all elevations required in Question 7 above, except item 7(b)(3). If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator.

Exhibit No.
E-1

9. Effective Radiated Power:

(a) ERP in the horizontal plane

.240 kw (H*) .240 kw (V*)

(b) Is beam tilt proposed?

☐ Yes ☒ No

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

Exhibit No.
n/a- kw (H*) - kw (V*)

*Polarization

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 3)

10. Is a directional antenna proposed?

☐ Yes ☒ No

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316, including plot(s) and tabulations of the relative field.

Exhibit No.
n/a

11. Will the proposed facility satisfy the requirements of 47 C.F.R. Sections 73.315(a) and (b)?

☒ Yes ☐ No

If No, attach as an Exhibit a request for waiver and justification therefor, including amounts and percentages of population and area that will not receive 3.16 mV/m service.

Exhibit No.
n/a

12. Will the main studio be within the protected 3.16 mV/m field strength contour of this proposal?

☒ Yes ☐ No

If No, attach as an Exhibit justification pursuant to 47 C.F.R. Section 73.1125.

Exhibit No.
n/a

13. (a) Does the proposed facility satisfy the requirements of 47 C.F.R. Section 73.207?

☐ Yes ☒ No

(b) If the answer to (a) is No, does 47 C.F.R. Section 73.213 apply?

☒ Yes ☐ No

(c) If the answer to (b) is Yes, attach as an Exhibit a justification, including a summary of previous waivers.

Exhibit No.
(A-4)

(d) If the answer to (a) is No and the answer to (b) is No, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

Exhibit No.
n/a

(e) If authorization pursuant to 47 C.F.R. Section 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

Exhibit No.
n/a

- (1) Protected and interfering contours, in all directions (360), for the proposed operation.
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as the transmitter location.
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (5) The official title(s) of the map(s) used in the exhibit(s).

14. Are there: (a) within 60 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast *(except citizens band or amateur)* radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?

☒ Yes ☐ No

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(e) and 73.318.)

Exhibit No.
E-2

15. Attach as an Exhibit a 7.5 minute series U.S. Geological Survey topographic quadrangle map that shows clearly, legibly, and accurately, the location of the proposed transmitting antenna. This map must comply with the requirements set forth in Instruction V. The map must further clearly and legibly display the original printed contour lines and data as well as latitude and longitude markings, and must bear a scale of distance in kilometers.

Exhibit No.
E-3

16. Attach as an Exhibit *(name the source)* a map which shows clearly, legibly, and accurately, and with the original printed latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
E-4

(a) the proposed transmitter location, and the radials along which profile graphs have been prepared;

(b) the 3.16 mV/m and 1 mV/m predicted contours; and

(c) the legal boundaries of the principal community to be served.

17. Specify area in square kilometers (1 sq. mi. = 259 sq. km.) and population (latest census) within the predicted 1 mV/m contour.

Area 1,758.9 sq. km. Population 195,123

18. For an application involving an auxiliary facility only, attach as an Exhibit a map *(Sectional Aeronautical Chart or equivalent)* that shows clearly, legibly, and accurately, and with latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
n/a

(a) the proposed auxiliary 1 mV/m contour; and

(b) the 1 mV/m contour of the licensed main facility for which the applied-for facility will be auxiliary. Also specify the file number of the license.

19. Terrain and coverage data *(to be calculated in accordance with 47 C.F.R. Section 73.313)*

Source of terrain data: *(check only one box below)*

☒ Linearly interpolated 30-second database ☐ 7.5 minute topographic map

(Source: NGDC)

☐ Other *(briefly summarize)*